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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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12 GARRY SEABROOKS,

13 Plaintiff,

CIV. S-04-1538-FCD-PAN-PS

14 v.

15 BFI BROWNING FERRIS INDUSTRIES,  
16 et al.,

ORDER

17 Defendants.  
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20 This matter was referred to the Honorable Peter A. Nowinski,  
21 United States Magistrate Judge, pursuant to 28 U.S.C. §§ 636, et  
22 seq., and E.D. Local Rule 72-302. On May 17, 2005, Judge  
23 Nowinski recommended that plaintiff's action be dismissed and  
24 ordered he pay sanctions in the amount of \$3,612.00. On May 25,  
25 2005, plaintiff filed objections to the findings and  
26 recommendations. By order dated June 28, 2005, the court adopted  
the magistrate judge's findings and recommendations. Plaintiff

1 now moves for reconsideration of the court's June 28, 2005 order.

2 Absent "highly unusual circumstances," reconsideration of a  
3 final judgment is appropriate only where (1) the court is  
4 presented with newly-discovered evidence, (2) the court committed  
5 "clear error or the initial decision was manifestly unjust," or  
6 (3) there is an intervening change in the controlling law.

7 School Dist. No. 1J, Multnomah County, 5 F.3d at 1263. In order  
8 for evidence to be considered "new" for the purposes of Rule  
9 60(b), it must be of such a character that it would change the  
10 outcome of the court's prior decision. See Fernhoff v. Tahoe  
11 Regional Planning Agency, 622 F.Supp. 121, 122 (D. Nev. 1985).

12 To prevail on a motion for reconsideration, the moving party  
13 must show: (1) the availability of new evidence; (2) a clear  
14 error of law resulting in manifest injustice; or (3) an  
15 intervening change in the controlling law. See School District  
16 No. 1J, Multnomah County, Oregon v. ACandS, Inc., 5 F.3d 1255,  
17 1263 (9th Cir. 1993).

18 In the absence of new evidence or a change in the law, a  
19 party may not use a motion for reconsideration to present new  
20 arguments or claims not raised in the summary judgment motion.  
21 See 389 Orange Street Partners v. Arnold, 179 F.3d 656, 665 (9th  
22 Cir. 1999). Similarly, a court does not err in declining to  
23 reconsider claims never pleaded in the complaint. See id.

24 Plaintiff has not met his burden of demonstrating (1) the  
25 availability of new evidence; (2) a clear error of law resulting  
26 in manifest injustice; or (3) an intervening change in the

1 controlling law. Accordingly, plaintiff's motion for  
2 reconsideration is DENIED. Plaintiff is admonished that the  
3 court will look with disfavor on the filing of redundant motions  
4 that do not satisfy Rule 60's requirements.

5 IT IS SO ORDERED.

6 DATED: July 21, 2005.

7  
8 /s/ Frank C. Damrell Jr.  
9 Frank C. Damrell, Jr.  
UNITED STATES DISTRICT JUDGE